

PERSONAL DATA - PRIVACY ACT OF 1974 (5 U.S.C. 552a)

TRIAL OBSERVER'S REPORT  
IN THE CASE OF  
RIDGE HANNEMANN ALKONIS, LT, USN,  
USS BENFOLD (DDG-65)

1. Name: Ridge Hannemann Alkonis  
Rate: LT, USN  
Social Security #: [REDACTED]  
Organization: USS BENFOLD (DDG-65)  
U.S. Address: [REDACTED]

2. OFFENSES CHARGED; DATE AND PLACE OF ALLEGED OFFENSES:

The Accused was charged with causing death and bodily injury through negligence while operating an automobile. The alleged offense was in violation of Article 5 of the Law Concerning the Punishment for the acts and so forth causing bodily injury and death of others in the operation of an automobile. The offense allegedly took place on 29 May 2021, on the road in the vicinity of #59, Yamamiya, Fujinomiya city, Shizuoka prefecture Japan.

3. TEXT OF ALLEGATIONS OF COMPLAINT (INDICTMENT):

(Facts constituting the offenses charged)

The Accused did, at approximately 1:00 P.M. on 29 May 2021, while in the process of operating an ordinary passenger vehicle and proceeding on the road in the vicinity of #59, Yamamiya, Fujinomiya city, Shizuoka prefecture, feeling drowsy, as a result of which, when there existed a fear of having difficulty of watching things closely in the frontal direction, notwithstanding that, under such circumstances, he had a duty of driving a car carefully by stopping the vehicle immediately, neglecting therewith, without stopping the operation of the car immediately, continue driving a car under the aforementioned circumstances inattentively, and through such negligence, did, at approximately 01:09 P.M. on the same day, while driving to proceed the roads between the vicinity of the road at 1611-1, Yamamiya, the same city and

the vicinity of the road at 2525-1, Yamamiya, the same city, at a rate of approximately 45 kilometer per hour, from the direction of Awakura towards that of Kitayama, fall into a state of drowsiness, around which time, did, on the road in the same vicinity, permit his car to uncontrollably proceed toward the northwest direction of the parking lot on the south side of the building of establishment restaurant on the road located at 2649-23, Yamamiya, the said city, which was located on his right, did permit the front part of his car to collide with the front part of an ordinary passenger car (Fujisan340 SA 3940) (hereinafter called "No.1 vehicle") which was parked at the southeast end of the said place, and moreover, did permit the right front part of his car to collide with the left front part of an ordinary passenger car (Fujisan 341 CHI 1881) (hereinafter called "No.2 vehicle"), which was parked on the northwest side of No.1 Vehicle, did, due to the impact thereof, cause No.2 vehicle to be pushed and rotated from facing the southwest direction to facing the northwest direction, when Takeshi Endo (54 years old at that time) was about to get into the driver's seat of an ordinary passenger car (Shizuoka 330 SE 7072) (hereinafter called "No.3 vehicle"), which was parked right next to the aforementioned vehicle, did cause No.2 vehicle collide with the said vehicle together with the aforementioned Takeshi Endo to compress him between them, and moreover, due to the impact thereof, did cause the No.3 vehicle pushed toward the north direction to cause its left front part to collide with Fumiko Endo (53 years old at that time), who was violently struck by the said vehicle to be knocked down on the ground, did, moreover, when Seiko Sano (85 years old at that time) was walking on the left side of the said vehicle, cause the left side of the said vehicle collide with her and the left side of an ordinary passenger car (Fujisan 588 NA 1017), which was parked right next to the said vehicle, to compress her body between those vehicles, did thereby inflict bodily injury of tonic pneumothorax upon her, and did thereby cause her to die due from the aforementioned injury, at approximately 03:42 P.M. on the same day, in the Shizuoka Prefectural General Hospital, located at 27-1, 4 Chome, Kitayasu-higashi, Aoi-ku, Shizuoka prefecture, and did inflict bodily injury such as fracture of pelvis, etc. upon the aforementioned Takeshi Endo, did thereby cause him to die due to diffuse cerebral eduma caused by fat embolism resulted from the aforementioned injuries, at approximately 06:28 P.M. on 11 June, the same

year, in the Shizuoka Hospital attached to the Medical Faculty of Juntendo University, and did inflict bodily injury of contusions and abrasions on both knees and left elbow, upon the aforementioned Fumiko Endo, which requires medical treatment for a period of approximately seven (7) days.

4. CITATION AND TEXT OF STATUTES PRIMARILY INVOLVED:

Causing Death or Bodily Injury through Negligence in Automobile Operation

Article 5 A person who fails to use such care as is required in the conduct of operation of an automobile and thereby kills or injures another shall be punished with imprisonment at or without forced labor for not more than seven years or a fine not more than 1,000,000 yen. Provided that if the injury is minor, the penalty may be remitted in the light of extenuating circumstances.

5. NAME, LOCATION AND TYPE OF COURT; DATE AND PLACE OF TRIAL:

The trial sessions were held at the Numazu Branch, Shizuoka District Court, 21-1, Miyuki-cho, Numazu City, Shizuoka Prefecture, Japan on 24 August 2021 and 18 October 2021.

6. RESULTS OF TRIAL:

In accordance with his plea of guilty, the Court found the Accused guilty as charged.

7. SENTENCE:

Imprisonment without forced labor for a period of three years.

8. APPEAL:

The Accused filed Koso-appeal with the Tokyo High Court of Japan on 20 October 2021.

9. DEFENSE COUNSEL:

The Accused selected and was represented by Mr. Yuki Ichikawa. Mr. Ichikawa has prior experience in defending

Japanese criminal cases and has a good command of the English language. Mr. Ichikawa's defense of the Accused was able and conscientious. The fee of 450,735 yen for the defense service for the public trial including pre-trial provided by Mr. Ichikawa was paid by the U.S. government.

10. INTERPRETERS:

Ms. Kaori Sumiya was appointed by the court as its interpreter. Mr. Koichi Sekizawa and Mr. Rei Nakao of the Staff Judge Advocate's Office, Commander, Fleet Activities Yokosuka, Japan acted as the interpreter for the trial observer during the trial session. Ms. Sumiya, Mr. Sekizawa and Mr. Nakao have an excellent command of the English language and have legal experience. The translation of the proceedings rendered by the above interpreters was adequate.

11. BAIL:

Bail request was made on 19 June 2021. The request was approved by the Numazu Branch Court on 21 June 2021. The bail in the amount of 1,500,000 yen was deposited on 23 June 2021, and the Accused was released on 23 June 2021.

12. RESUME OF TRIAL PROCEEDINGS:

**a. First Session - 24 August 2020**

(1) Persons present:

U.S. Trial Observer:	(b) (6), (b) [REDACTED], LT, JAGC, USN Deputy FJA, Commander Naval Forces, Japan
Interpreter:	Mr. (b) (6), (b) [REDACTED] and Mr. (b) (6), (b) [REDACTED], SJA Office, CFAY
Judge:	Hon. Kumiko Maezawa
Prosecutor:	Ms. Yumi Ehara
Court Interpreter:	Ms. Kaori Sumiya
Defense Counsel:	Mr. Yuki Ichikawa
Accused:	Ridge Hannemann Alkonis, LT, USN

(2) Proceedings:

(a) The Court began the trial at 1330 hrs. The court interpreter was appointed and sworn in. The Court asked identifying questions of the Accused, who answered the questions.

(b) The prosecutor read the indictment against the Accused.

(c) The Court advised the Accused he had the right to remain silent and to refuse to answer any questions, and that if he did speak, any statements made could be used either for or against him. The Court then asked if he admitted the facts as stated in the indictment read by the prosecutor. The Accused admitted to the facts of the charge and stated that everything was correct.

(d) Mr. Ichikawa, his defense attorney, concurred with the Accused.

(e) The prosecutor made an opening statement in summary as follows:

I. Personal history of the Accused:

1. The Accused was born in the United State and graduated from the United States Naval Academy and so on. The Accused is currently in the military serving as a military service member.
2. The Accused is living with his wife and children at the address identified on the indictment.

II. Sequence of events leading to the accident and the circumstances of the accident:

1. The Accused visited Fujinomiya city, Shizuoka prefecture, operating a vehicle, in which his wife and children were passengers, on the date of the accident in this case, 29 May 2021.
2. While in the process of operating the vehicle and proceeding on a road in the said city in order to find a place to eat lunch, the Accused felt drowsy

and came to a state where there was a fear of having difficulty of watching things closely in the frontal direction.

Notwithstanding that, the Accused did not immediately stop operating the vehicle, but kept operating it under the same circumstance.

3. As a result, the Accused fell into a state of drowsiness.

The Accused permitted his vehicle to proceed uncontrollably toward the northwest direction of the parking lot on the south side of the building of the off-street restaurant.

The vehicle that the Accused was driving collided with an ordinary passenger vehicle (hereinafter called "vehicle No. 1") which was parked in the said parking lot.

The vehicle that the Accused was driving further collided with another ordinary passenger vehicle (hereinafter called "vehicle No. 2") parked on the northwest side of vehicle No.1, the impact of which pushed vehicle No. 2 out.

Vehicle No. 2 then compressed Mr. Takeshi Endo who was about to get in the driver seat of another ordinary passenger vehicle (hereinafter called "vehicle No. 3") which was stopped adjacently to the said vehicle between vehicle No. 2 and vehicle No. 3. Furthermore, by this impact, vehicle No. 3 was pushed out and hit Ms. Fumiko Endo who was walking in the vicinity.

Additionally, the said vehicle hit Ms. Seiko Sano who was also walking in the vicinity of the said vehicle, and compressed her between the said vehicle and another ordinary passenger vehicle parked adjacently to the said vehicle.

4. Because of the above accident, Ms. Fumiko Endo sustained contusions and abrasions on both her knees and left elbow, which required medical attention and rest for seven (7) days.

Although Ms. Seiko Sano was transported to a

hospital, she died due to the injury of tension pneumothorax around 1542 on the said day. Although Mr. Takeshi Endo was transported to a hospital, he died due to diffuse cerebral edema caused by fat embolism based on the injuries of a fractured pelvis and etc. around 1828 on 11 June, the said year.

### III. Other circumstances and etc.:

(f) The prosecutor offered evidence in two parts. Part A contained 35 items, part B contained 12 items. (See Appendix A)

(g) The defense counsel submitted 30 items of documentary evidence, and asked the court to examine the Accused and the Accused's wife as a witness.

All the evidence and a request of the court examining the Accused and the Accused's wife as a witness submitted by the defense counsel was accepted with the prosecutor's consent and was examined by the court.

(h) The Accused's wife was sworn in as a witness, whom the court advised on the caution of perjury, and the court asked the witness to look toward the judge and answer questions to the point. In response to questions by the defense counsel, the witness testified as follows:

Q: Are you a wife of Ridge Hannemann Alkonis in this case?

A: Correct.

Q: How many years have passed since you got married to Mr. Alkonis?

A: It's been about 9 years.

Q: Do you live with Ridge in the same house now?

A: Yes, I do.

Q: Do you have children?

A: I have a 7 year-old daughter, a 5 year-old daughter and a 3 year-old son.

Q: What kind of husband and father is Ridge when he is home?

A: As a father, Ridge is kind, attentive, and a moral leader. As a husband, he is respectful, loving, and caring.

Q: Were you in Mr. Alkonis' car at the time of the accident?

A: Yes.

Q: Do you have a driver's license?

A: Yes.

Q: How come you were not able to drive instead of Mr. Alkonis?

A: Ridge is usually the driver. He drives when we go beyond Yokosuka because he is familiar with the roads, understands signs in Japanese, and drives better than me.

Q: How were you at the time of the accident?

A: A few minutes before the accident, I kept my eyes closed due to car sickness and was trying to just make it to where we were going..

Q: Were you not in condition where you were able to take over driving?

A: I was not.

Q: What do you think Mr. Alkonis should do to prevent an accident like this from occurring in the future? A: He will never drive again.

Q: Will you ever let Mr. Alkonis drive under your supervision?

A: I will never let him drive.

Q: Do you have something to plead with the court for?

A: We are sorry that this occurred. We love this country and only ever wanted to contribute. We will never let this happen again and ask for mercy.

(i) In response to questions by the prosecutor, the Accused's wife testified as follows.

Q: Did the accident occur when you were heading to Ideboku?

A: Yes.

Q: Did you need to rush there?

A: No.

Q: What did you think when you heard that the accident was caused by the Accused falling asleep at the wheel?

A: I thought about a lot of things. I was confused. I am terribly sorry that it happened.

Q: What should the Accused have done to avoid the accident?

A: My eyes were closed and I wasn't familiar with the road. He should have pulled over on the shoulder of the road or I should have taken over driving. He could also have stopped to rest.

Q: What could you have done if the Accused had asked you to drive for him to have a rest before the accident?

A: That would've been fine, I could have driven the car myself if he had asked me to drive.

Q: What was he doing when the ambulance arrived at the scene?

A: He tried to help, he tried to move the car with the other people and he was talking to the people there.

Q: What was the Accused doing after the accident before the ambulance's arrival at the scene?

A: I don't remember well, but he called for help and was doing what he could before the ambulance arrived at the scene.

(j) The Accused's defense counsel noted concern with the translation of a previous answer into Japanese and asked the Accused's wife a question to confirm her answer to the question asked by the prosecutor; the attorney's concern was that it made it seem as if the answer was based on the wife's observation before the accident instead of based on her past experiences more generally with the Accused. In response to the question by the defense counsel, the Accused's wife testified substantially as follows:

Q: What should the Accused have done to avoid the accident?

A: He should have immediately stopped the car on the shoulder of the road or should have immediately parked the vehicle in a parking lot to have a rest, or should have woken me up and should have switched driving with me. If my eyes had been open and he was tired, he would have asked me to drive.

(k) Defense counsel questioned the Accused. In response to questions by the defense counsel, the Accused testified substantially as follows:

Q: You were indicted for the charge that at approximately 1300 hours on 29 May this year, you were driving your vehicle in Fuminomiya and fell into a state of drowsiness at the wheel, caused a traffic accident, which resulted in causing Ms. Seiko Sano and Mr. Takeshi Endo to die and Ms. Fumiko Endo to be injured. Is it correct?

A: Correct.

Q: Do you understand the content of the written indictment?

A: Yes.

Q: What is your residency status in Japan?

A: SOFA.

Q: What is your profession?

A: I am a U.S. Naval Officer.

Q: When did you come to Japan as a military service member?

A: I first came in 2012 to 2016, and then came for a second tour in Japan starting November 2020 to the present.

Q: Had you been in Japan before becoming a naval officer?

A: Yes. It was in 2008.

Q: What was the purpose of your stay in Japan then?

A: To devote myself to voluntary missionary work abroad. I stayed for about 2 years at that time.

Q: Where did you do the missionary work?

A: In Nagoya, Gifu, Ishikawa, Nagano... mainly in the Chubu region.

Q: Were there any other times that you came to Japan?

A: Yes, another time.

Q: What did do then?

A: I was a delegate of the Naval Academy assigned to visit the Government of Japan and various Japanese corporations such as JR East, SONY, etc.

Q: What is your current home?

A: Yokosuka

Q: Who do you live with there?

A: I live with my wife and three children.

Q: What time did you leave your home on the day of the accident?

A: Between 0800 and 0830.

Q: Did you start driving your vehicle when you left your house?

A: Yes.

Q: Were the occupants your wife and children occupants of the car?

A: Correct.

Q: Where were you going?

A: We headed to the fifth station of Mount Fuji.

Q: What was the purpose of your trip?

A: My second daughter asked me to take her there before my ship deployed for three months. I wanted to keep my promise to her.

Q: Was it your second daughter's request?

A: Yes.

Q: On that day were you off duty?

A: Yes.

Q: When did you decide to go to the fifth station of Mount Fuji?

A: We had been planning to go at some point for a few months. We decided to go on this specific day two to three days before we actually went.

Q: Were you permitted by the military to travel within Japan due to COVID-19?

A: Yes, we were. Mount Fuji was not a restricted area at that time.

Q: What areas were off limits?

A: Tokyom, Osaka, Kawasaki, and other places were restricted areas at the time.

Q: What time did you go to bed the night before?

A: I went to bed at around 2100.

Q: What time did you wake up in the morning of the day of the accident?

A: I woke up between 0400 and 0500.

Q: What did you do before you left home on the day?

A: I exercised by riding my bicycle.

Q: Is it your routine to do that?

A: Yes.

Q: When you left home were you sleepy?

A: No.

Q: Did you go to bed at the usual time the night before and wake up at the usual time that morning?

A: Yes.

Q: Did you sleep enough the night before the day of the accident?

A: Yes.

Q: What time did you arrive at the fifth station of Mount Fuji?

A: It was 1100.

Q: Was it the fifth station of Mount. Fuji?

A: Correct.

Q: How long were you there?

A: We were there for about 1 hour.

Q: What time did you leave the fifth station of Mount Fuji?

A: It was about 12 O'clock.

Q: What was your next destination?

A: It was Ideboku.

Q: Is it a farm?

A: Yes, it is a dairy farm that sells pizza, and ice cream as well.

Q: What were you going to do there?

A: We were going to eat lunch and get ice cream there.

Q: Is it correct that the accident occurred when you were heading from the fifth station of Mount Fuji to Ideboku?

A: Correct.

Q: While you were driving, did you feel something wrong with your body?

A: Yes.

Q: How did you feel wrong?

A: I felt my body weaken while I was turning at a large curve, which caused the car to drift within the lane, but I recovered before the car could drift out of the lane.

Q: Did you feel drowsy at that time?

A: No.

Q: What exactly felt wrong with you?

A: My arms felt weak.

Q: Before the accident, have you felt drowsy during the day?

A: Yes.

Q: In what situations do you feel drowsy?

A: I feel drowsy when I don't have enough sleep the night before.

Q: At the time of the accident, you felt different than ordinary drowsiness?

A: Correct.

Q: Did you yawn while driving before the accident?

A: No.

Q: While driving, did you feel your eyelids get heavy?

A: No, I never felt my eyelids get heavy while driving. [Note, after saying "No," LT Alkonis' answer to this question was in Japanese]

Q: Did you take any medicine or drink alcohol that day before the accident?

A: No, and I never drink alcohol.

Q: About how much time before the accident was it when you felt off like how you did on the large curve?

A: About five minutes before the accident.

Q: How long did it last?

A: For about one second.

Q: When did you feel the abnormal next?

A: Right before the accident.

Q: How did you feel then?

A: Once again, I felt very weak and tired.

Q: What did you do then?

A: I tried to talk with my daughter in the car.

Q: Did you actually talk with her?

A: I spoke to her, but when I was waiting for her response, I lost my memory.

Q: Do you not remember anything thereafter?

A: No.

Q: Do you only have a memory after the accident?

A: Yes.

Q: What do you think you should have done to prevent the traffic accident?

A: I should have immediately stopped my car when I felt something wrong with my body.

Q: Why did you not stop your vehicle immediately?

A: Because we were very close to Ideboku.

Q: Is it correct to say that Ideboku was very close and you thought it was okay if you would have a rest at Ideboku?

A: Yes.

Q: Could you have asked your wife to drive?

A: Yes, but my wife was very car sick because we drove on winding roads so I didn't.

Q: Before the accident did you ever lose consciousness?

A: No.

Q: Do you have epilepsy or another disease that causes you to fall asleep?

A: No.

Q: Did you see a doctor after the accident?

A: Yes.

Q: What did you see a doctor for?

A: The Navy wanted to see if there was a medical reason I couldn't do my job.

Q: The Navy had you see a doctor to ascertain the cause of the accident?

A: I was asked to do a Fit for Duty screening to see if I could do my job safely.

Q: What did the doctor say?

A: I had a neurologic doctor and a primary doctor. Both of them said that I had acute mountain sickness.

Q: Do you admit that the cause of the traffic accident in this case is through your negligence?

A: Yes.

Q: What do you feel about the victims and the bereaved families of the victims of the accident in this case?

A: I feel terrible and sorry for causing them great pain and suffering.

Q: Did you convey your feeling to the bereaved families?

A: Yes, I wrote letters of apology to the bereaved families.

Q: Are they included in the documental evidence submitted to the court?

A: Correct.

Q: Have the bereaved families received the letters of apology?

A: There was no response from the bereaved families though I tried to see to it that my defense counsel would give the letters of apology to them.

Q: Do you understand that the bereaved families are angry to that degree?

A: Yes.

Q: When did you start driving?

A: When I was 16 years old.

Q: Have you ever been in a traffic accident before this incident?

A: I have not been in a traffic accident , but one time scratched my car in the driveway.

Q: Did you have a valid driver's license at the time of the traffic accident?

A: Yes.

Q: Do you drive your car now?

A: No.

Q: Are you planning to drive a vehicle in the future in Japan?

A: No, I voluntarily gave up my driver's license to the U.S. Navy after the traffic accident in this case.

Q: Do you feel remorseful about the traffic accident?

A: I regret it more than any mistake in my life.

Q: What do you think you should do to prevent a traffic accident in the future?

A: I will never drive a car here again .

Q: Have you compensated for the bereaved families of Ms. Seiko Sano and Mr. Takeshi Endo and injured Ms. Fumiko Endo?

A: Not yet.

Q: Why is that?

A: Because a response has not returned yet to the letters that I asked my defense counsel to send to the representative of the bereaved families.

Q: So you sent letters but received no response?

A: Yes

Q: How will you compensate the families for the damages?

A: By insurance and my own money.

Q: Does the insurance mean your Japanese Compulsory Insurance and your liability insurance?

A: Correct.

Q: What is the coverage of your Japanese Compulsory Insurance and your liability insurance?

A: My Japanese Compulsory Insurance covers 30 million yen per person and my liability insurance covers 30 million yen per person. So, 60 million yen per person in total.

Q: What will you do if the damages exceeded the coverage?

A: I will pay by myself.

Q: You deposited your money with me, didn't you?

A: Yes, I deposited 50 million yen with you.

Q: How did you collect the amount of money?

A: I collected it from family, friends, and my savings.

Q: I will not return the sum of money to you until the civil case is completed, right?

A: Right.

Q: You selected me as your attorney-at-law for your civil case, right?

A: Yes.

Q: Is it correct that I will represent you in this case wherever you may go?

A: Yes.

Q: Did you pay for the damages to personal properties other than those in this case?

A: Yes.

Q: What about the compensation for the damages to the vehicle of Mr. Mochizuki's?

A: He had his insurance on his car and got paid for them by his insurance company and he did not need me to pay for them.

Q: How much did your insurance company pay to you to cover the damages?

A: About 3 million yen.

Q: Would you stay in Japan if you were awarded a suspended sentence or would you be ordered back to the U.S.?

A: No, I would be ordered back to the U.S.

Q: Would any penalty be awarded to you by the U.S. Navy due to this case?

A: Yes, I would probably lose my promotion and would be discharged from the U.S. Navy.

Q: What do you think about your family after hearing your wife testify?

A: I feel sorry for my wife and children for the consequences of my action.

Q: Can you swear that you will never drive a vehicle again?

A: Yes. I will never drive.

(1) In response to questions by the prosecutor, the Accused testified as follows.

Q: Did you reenact the driving route on the roads you took on the day of the accident to show the police investigators for their confirmation while you were detained?

A: Yes.

Q: Did you confirm with the investigator(s) that there were no problems at all for you to stop and take rest at any points of the roads on the course if you had so desired?

A: Yes.

Q: Why did you not stop your vehicle before you talked to your daughter?

A: I thought that I could continue driving a little farther because we were almost at Ideboku where I then planned on taking a break.

Q: Do you recognize that a car can be very dangerous depending on how to use one? Your family was in your car. Were you not afraid of driving a vehicle when you felt wrong with your body?

A: Yes, I recognize a car is dangerous. I never felt that that way, that weakness, before so I did not understand what was happening. I was not scared of what would happen, but I should have been scared.

Q: Did you not think at all of stopping your vehicle?

A: I was thinking of stopping my vehicle in Ideboku, because it was so close.

Q: Do you understand that this accident could have been prevented if you had stopped your vehicle when you felt something wrong with your body?

A: Yes.

Q: In a statement that you made, you said that you did not think that Seiko Sano would die because she was moving after the accident. You also mentioned that Seiko Sano was caught in between the cars. A witness made a statement of observing the circumstances that she let out an agonized cry with severe pains and was literally blue in her face. Did you not notice this?

A: No, after helping move the car someone picked her up so I didn't get to see or speak to her.

Q: What were you doing while witnesses were trying to help Seiko Sano?

A: I was trying to move a car to free Mr. Takeshi Endo who was caught in between another car.

Q: When the ambulance arrived at the scene, where were your wife and your children?

A: They were in front of the soba restaurant.

Q: Were you also with them there when the ambulance arrived? A: Yes, I saw a rescue worker talking to my wife, so I tried to help translate for their conversation.

Q: Were you with your wife and children thereafter?

A: Yes, I spent some time with them and some time with the police separated from them

Q: Is it correct that you spoke with the rescue worker about the conditions of the victims, Ms. Seiko Sano and Mr. Takeshi Endo?

A: Yes.

Q: Do you know the content of the document from Tomoko Sano to your defense counsel that your defense counsel asked the court to examine?

A: I have difficulty reading Japanese but my defense attorney explained the contents.

Q: Do you know that the bereaved families were angry that your defense counsel contacted them for the first time after you were released on bail?

A: Yes. I wrote letters of apology when I was in the police detention facility, but I heard that they were not accepted by them.

Q: The same question: Do you know that the bereaved families were angry that your defense counsel contacted them for the first time after you were released on bail?

A: Yes, and I am sorry that I made them more upset.

Q: Why did you not try to contact the bereaved families until you were released on bail?

A: I tried to contact them.

Q: Did you try to contact them when you were detained?

A: Yes.

Q: Why is there a contradiction between the bereaved families' statement and yours as to whether you were trying to contact the bereaved families?

A: I do not know. I wrote letters of apology while I was under detention.

Q: In this public trial, I asked the court to examine the statements made by Fumiko Endo and Tomoko Sano. Did you understand them?

A: Yes.

Q: How did you feel after you read the statement made by Fumiko Endo?

A: I am so sorry for the pain and agony caused because of this accident.

Q: How did you feel after you read the statement made by Tomoko Sano?

A: Once again, I am so sorry for pain and loss I caused to Tomoko-san.

Q: You stated in reply to your defense counsel's questions that you will lose an opportunity of promotion. Are there any other

disciplinary actions to be taken by the military authority against you?

A: Yes. The U.S. Navy will remove me and I will most likely be discharged from the U.S. Navy.

(m) In response to additional questions by the defense counsel, the Accused testified substantially as follows:

Q: Did you give the letters of apology to anyone besides me?

A: I gave the letters of apology to my wife and the representative of the U.S. Navy.

Q: Were the letters of apology not delivered to the bereaved families anyway?

A: No, they were not.

(n) In response to questions by the judge, the Accused testified substantially as follows:

Q: Did you write the letters of apology to the victims when you were under detention?

A: Yes.

Q: What was the content of the letters and to whom did you write?

A: I wrote to Fumiko Endo, Seiko Sano and Takeshi Endo. When Endo-son's condition changed, I rewrote one to be sensitive to the changing condition.

Q: Were the 3 letters to the victims and the 1 letter to Tomoko Sano?

A: Yes.

Q: Did you ask your wife and the representative of the U.S. Navy because you were thinking of sending the letters with their help?

A: Yes.

Q: Did you know that the letters were not delivered despite that?

A: Yes, and I gave money to buy a gift along with the letters, but they were not accepted.

Q: Were the letters those that you wrote at first or later?

A: I understand that none of the letters were accepted.

Q: Did you not know why the letters that you wrote at first were not accepted?

A: I understand that the letter of apology and a gift through the representative of the U.S. Navy, Mr. Sekizawa were refused.

Q: You stated that you felt weak before the accident. Is it that you felt heavy or drowsy? Were your arms not movable? What condition were you in?

A: I felt like my arms became a little bit weak, but it only lasted for one second. I didn't feel sleepy then.

Q: Did you feel drowsy thereafter?

A: Not until right before the accident occurred.

Q: At which stage did you feel drowsy?

A: Just before I talked to my daughter.

Q: So that means first you felt something wrong with your body physically, then you felt tired and sleepy?

A: I did not feel tired or drowsy in between the time when I talked with my daughter and the time of the accident.

Q: Did you explain to the investigators exactly how you felt when you were driving your vehicle?

A: Yes, I explained to them as same as today.

Q: Was there anything, like help, that you did for the three victims after the accident?

A: Yes, I tried to move the car and free the victims.

Q: For which victim?

A: Seiko Sano and Takeshi Endo.

Q: What did you do for them when they were under what condition?

A: When Seiko Sano was unable to get up from beneath the car, I tried to pick up the car and to move it after which other people were watching me and came to help me.

Q: Did other people help to move the car when Seiko Sano was caught in between the vehicles?

A: Yes.

Q: What about the other two victims? Did you try to move the cars in between which Takeshi Endo was caught?

A: Yes.

Q: Did you successfully move the vehicles?

A: We moved one vehicle, but it looked like it was further injuring Takeshi Endo so we stopped.

Q: What situation was Takeshi Endo in?

A: Takeshi Endo was caught in between two vehicles and conscious when I started to move the car, but others shouted to stop. It appeared by moving the car it was trapping him more.

Q: You said that you would never drive a vehicle again in the future. Do you mean that you will never drive a vehicle again in the future in Japan?

A: Right. I will never drive a car again in the future in Japan, I can get to work in the U.S. by train or a bicycle if I try.

(o) In response to additional questions by the prosecutor, the Accused testified substantially as follows:

Q: Did you try to move vehicles between which Seiko Sano was trapped?

A: Yes.

Q: Did other people help her first before you tried to do that?

A: No.

Q: You mentioned some reasons why you stopped moving the vehicle that caught Takeshi Endo in between another vehicle. Did you stop doing that because Takeshi Endo had pain and suffering?

A: I don't remember exactly, but it very could be true.

(p) In response to additional questions by the defense counsel, the Accused testified substantially as follows:

Q: Did Mr. Sekizawa contact someone from the bereaved families before I gave the letters of apology to him? If so, who?

A: I am not sure a hundred percent. But I think it was with Mr. Ichihara.

Q: Was it Tomoko Ichihara?

A: It was her husband.

Q: Did he not accept the letters of apology you prepared?

A: That's what I understand.

(q) Ms. Tomoko Ichihara, the representative of the bereaved families took the stand and read aloud the content of the following written statement of opinion.

#### WRITTEN STATEMENT OF OPINION

1. I am the first daughter of the deceased Seiko Sano who died in the accident in this case. Fumiko Endo, who was injured in the same accident in this case, is my younger sister. Additionally, Mr. Takeshi Endo, who died in the accident in this case, is the husband of Fumiko.
2. My mother was born on 29 May 1936, and the day, when the accident in this case occurred, was her 85<sup>th</sup> birthday. Although being considerably old, my mother, who was a person of sunny disposition, of positive character and who was studious, without having any symptoms of dementia, read the entire newspaper every morning, wrote her daily activities in her diary, prepared every meal on her own, went to exercise class, and lived alone independently and properly at her house until the day when she reached her 85<sup>th</sup> year in her life. Around 1000 hours in the morning of that day, my mother called me and let me know that she had received a parasol, which was the birthday present sent from my sister and me, and appreciated our gift with pleasure. She also told me that she had been offered by Mr. Takeshi and Fumiko who were going to take her to a Soba restaurant later. Mr. Takeshi was a nice person, who always kindly cared for my mother, for which I, who was not able to go back to my childhood house to celebrate her birthday due to the Corona Virus, was very much thankful to Mr. Takeshi and Fumiko. The voice of my mother I heard over the phone sounded happy and joyful. Her encounter with the accident in this case was only three hours after that.

3. Around 1630 of the day, when my younger sister Noriko and I rushed and got to the hospital, where we saw her dying with poorly exhausted complexion, we witnessed that she never returned back to this world. Her body was still warm, from which I was not able to come to terms with the reality of her death, thinking of how she was talking with me with cheerful voice just that morning of the same day. When thinking of how dreadful it was and how painful it was for her, my heart beats in agony. Around that time, Mr. Takeshi was being transported to a different hospital due to receiving serious bodily injury, including a fractured pelvis. We were all full of hope and belief of his recovery, but due to the serious fracture his physical condition turned worse and worse. While attending the wake and subsequent funeral, Fumiko kept receiving phone calls from the hospital who only passed the messages of his condition getting worse and we all needed the help of Fumiko's daughter Minori, who was a nurse, to understand the medical jargon used by the assigned doctor for all of us who desperately hoped to find a good sign toward his recovery. Looking back on that time, it was a terrible time of suffering from the pains and the cruelty.
4. As both my mother and Mr. Takeshi were cheerful persons, we, the bereaved, are all left in the dark through deep loss and deprivation after their disappearance. I worry very much especially about Fumiko, who lost both her husband and her mother, and their children. Fumiko told me that she had been suffering from depression since then, often sensed her husband's appearance coming back home any day as he used to and often felt a sense of loss and deprivation. My niece Minori had to have a pitiless and painful experience that she had to face and acknowledge the death of her grandmother at the hospital, her workplace. She still remembers her father when she saw patients, who always remained unconscious, which made her feel keenly empathetic with the families of those patients. My niece Hanao, trying to be strong, helps Fumiko, who was no longer able to cook due to the

shock of the loss, cook every day for the bereaved family, but she is also having a hard time and deep feelings of loss and deprivation as a person who lost her father as she loved being always with her father who would often go for a drive with her. My husband and our children, and the husband of Noriko and their children are all trying hard to bear the pain of loss and deprivation quietly. Accordingly, all of the family members of the victims feel heartbroken every day.

5. The Accused deprived my mother and Mr. Takeshi of their lives through the gross negligence of dozing at the wheel. That being said, I have a strong skepticism of whether the Accused truly realizes the gravity of the sin he committed. I heard that after the occurrence of the accident, all the people, who were inside the soba restaurant, rushed out to the scene and tried to rescue my mother and Mr. Takeshi. Likewise I heard that the Accused also rushed to the scene right after the occurrence of the accident saying, "I'm sorry", but it is said that the people lost sight of him shortly after that. About 10 minutes after the occurrence of the accident, when an ambulance arrived, Mr. Takeshi was still crushed between the cars, and Fumiko was not allowed to get close to Mr. Takeshi due to herself being injured, sitting on the step attached to the ambulance, keeping her eyes on and worrying about both my mother and Mr. Takeshi, and when she noticed she didn't hear my mother's voice, who had been talking until that time, she turned around with a start, and she saw my mother vomiting blood. Even with such turmoil at the scene, Fumiko said that she saw the Accused and his wife hugging each other the whole time at a place distant from the scene of the accident. Although there was still a dying person with serious bodily injuries and another person trapped between the cars due to the traffic accident he caused, the Accused left the scene and promptly went back to where his family was. I read a statement written by the Accused the other day that described his thought, i.e., he did not think my mother was going to die because she was "moving" at the scene

of the accident. However, according to a written statement made by a third person, it describes a situation where the face of my mother looked all pale at the scene already, and my mother was even vomiting blood according to Fumiko. The Accused, who promptly left the scene, did not even notice the situation. Such his attitude as holding the victims at nothing compared with his convenience can be seen in the circumstances after his arrest. It seems that his defense counsel was selected by 8 June, but the day the defense counsel started his first communication with me was 25 June, two days after the Accused's release. I can never understand his attitude of trying to contact the victims only after securing his release, and therefore, I sent a letter of strong-worded complaint to the defense counsel in the name of ICHIHARA, Tomoko as the representative of the bereaved families on 28 June, in which I requested him for sure to communicate the message of complaint to the Accused, but no reply has been received so far. The defense counsel only sent a letter to suggest a private settlement to this attorney SANO, Tomoko on 13 July, two weeks or more after I sent my letter to him.

6. My mother always tried not to make us sisters care too much about her, enjoying watching her grandchildren grow, wanted to have good and joyful times with the family members, and piled up her daily efforts. My mother, however, can no longer have such enjoyment with us. Mr. Takeshi can no longer embrace his beloved wife and daughters again. We will never see again those good times when he made us laugh telling his funny stories with his cheerful expression. Mr. Takeshi lost his mother in April this year and worried a lot about his father being left alone after the death of his wife. The grief of Mr. Takeshi, who had to leave this world when he was only as young as 54 years old, is beyond our imagination. When we heard from the assigned doctor about his condition that his brain was not functioning at all, tears were coming out from his eyes.

7. In closing, we, the bereaved families, affirm that we will never forgive the Accused who deprived the precious lives of the two persons by dozing off at the wheel. We request the court to render a severe penalty against the Accused. Otherwise, we will see the same tragedies again.

The statement of opinion is made as above.

24 August 2021      Tomoko Ichihara      /seal/

(r) The prosecutor made her final argument substantially as follows:

I. The prosecutor is of the opinion that the facts constituting the offense charged have thoroughly been proved by the evidence examined at the court.

II. Circumstance:

1. Malicious in nature:

The Accused, while operating an ordinary passenger vehicle, caused the accident in this case by not stopping operation of his vehicle immediately and continuing operation of the vehicle under the same circumstances, notwithstanding he felt drowsiness and had a fear of having difficulty in watching things closely in the frontal direction.

Because of the accident that the Accused had caused, two victims who happened to be at the accident site were killed and another victim who was also at the site sustained injuries.

Distance between the points where the Accused first felt drowsiness and where he dozed off and lost consciousness was approximately 4.4 kilometers. On the road between these points, to the extent of the condition of the road, there was no circumstance at all that may have prevented him from stopping operation of the vehicle.

Additionally, the Accused himself was not in a situation with urgency or necessity that he did not

stop operation and had to continue operating the vehicle.

On the other hand, the victims were only walking in the parking lot of the building of the off-street restaurant, into which in a normal situation, it is unrealistic to imagine that an uncontrolled vehicle could run into it.

In short, the accident in this case could have definitely been prevented, only if the Accused had exercised a duty of easy and due care as an operator of an automobile to stop operation of the vehicle since he felt drowsiness.

The degree of the Accused's negligence is very grave, and the choice he took by easily continuing operation until he caused the accident should be strongly blameworthy.

## 2. Grave consequences:

Ms. Seiko Sano (hereinafter called Ms. Seiko), in the accident in this case, sustained injury of tension pneumothorax and died. Eighty five (85) years old at that time as she was, Ms. Seiko was living alone actively, enjoying her everyday life surrounded by her three daughters, their husbands, and her grandchildren.

It was Ms. Seiko's birthday on the date of the accident in this case and she was very much delighted by her birthday present she received from her daughters.

Ms. Seiko must have been looking forward to seeing her grandchildren grow up and attending their wedding ceremonies.

Mr. Takeshi Endo (hereinafter called Mr. Takeshi), in the accident in this case, sustained injuries of fracture of the pelvis and etc. and died of diffuse cerebral edema caused by fat embolism based on the said injuries.

Mr. Takeshi was a 54 year-old male at that time. Mr. Takeshi was a very fond father, commuted to his workplace far away from his residence so as not to

live separately from his daughter and used to let his daughter practice driving. He talked with his wife, Ms. Fumiko Endo (hereinafter called Ms. Fumiko) about going on a family trip, and was adored very much by his colleagues at his workplace. He got along well with his mother-in-law, Ms. Seiko, too, and on the day of the accident in this case, he took Ms. Seiko and Ms. Fumiko to visit the scene of the accident to eat soba. Ms. Seiko and Mr. Takeshi's regret is immeasurable that they left their family and their pleasure and hope from now were suddenly taken away. Ms. Fumiko had injury of contusion and abrasion to both her elbows and both her legs which required medical treatment for a period of approximately 7 days, too.

Then, before she recovered from the shock of the encounter of the accident, her dear mother and husband died.

Ms. Fumiko's emotions are impossible to imagine when she stated to the prosecutor "After my husband's death, I can't find hope in my life."

The consequences that arose from the accident in this case that the Accused caused are remarkably grave and absolutely irreparable.

Ms. Tomoko Ichihara (hereinafter called Ms. Tomoko), who is Ms. Seiko's daughter and Ms. Fumiko's older sister, stated her feeling as representative of the bereaved families.

Ms. Tomoko, in this public trial as well, made the following statement;

- "As both my mother and Mr. Takeshi were cheerful persons, we, the bereaved, are all left in the dark through deep loss and deprivation after their disappearance."
- "My mother, however, can no longer have such enjoyment with us. Mr. Takeshi can no longer embrace his beloved wife and daughters again."
- "We, the bereaved families, affirm that we will never forgive the Accused who deprived the precious lives of the two persons by dozing at

the wheel. We request the court to render a severe penalty against the Accused."

As has been stated to this point, the degree of negligence of the Accused is very high and the consequences caused are remarkably grave and irreparable.

It is natural that the bereaved families of Ms. Seiko and Mr. Takeshi state grievous feeling and strict feeling of penalization and they hope for severe penalty upon the Accused concerning the fact that the two lives were suddenly taken by the Accused dozing at the wheel. Even though the Accused has a liability insurance etc. and the compensation is going to be made from now, it will of course not be a substitute for the precious lives of Ms. Seiko's and Mr. Takeshi's, and it is not appropriate to interpret this too much in favor of the Accused.

### 3. Conclusion:

Judging from the foregoing circumstances, the criminal responsibility of the Accused is extremely grave, and even though taking into consideration circumstances in favor of the Accused that he has no previous criminal record or no conviction, admits the alleged facts and makes a statement of remorse etc., it should be appropriate to penalize the Accused with institutional treatment for an appropriate period of time.

### III. Recommended sentence:

In conclusion, taking all the aforementioned circumstances into consideration, in application of the applicable laws and ordinances, the prosecution deems it proper that the Accused should be sentenced to imprisonment without forced labor for a period of four (4) years and six (6) months.

(1) The defense counsel made his final argument substantially as follows:

Since the Accused admits the facts constituting the offense charged in this case and has no argument against them, the defense presents argument in mitigating circumstances as follows:

## 1. Personal history

(1) The Accused was born in the state of California, U.S.A. in 1988, after graduating from high school in the said state, he was admitted to the U.S. Naval Academy, visiting Japan as a missionary, engaging in missionary work and other volunteer activities in Japan while he was in the Academy. Many Japanese citizens who got to know him and were impressed with his gentle and sincere personality have prepared letters to serve as petition for a lenient sentence (defense exhibit 1 through 11). After graduation from the Academy, the Accused joined the U.S. Navy in 2006 and has been deployed to Japan twice. His current tour to Japan started in November 2020.

(2) The Accused is married to his wife and has two daughters (7 and 5 years old) and a son (3 years old), who are all living in Yokosuka city. The Accused is a very good husband and father in his family, and his family loves and respects him.

(3) The Accused has no record of either criminal offense or traffic accident either in Japan or the U.S.

## 2. Circumstance of the accident in this case

(1) Around 0830 on 29 May 2021, the Accused and his family left their home in Yokosuka city in a vehicle that the Accused was driving to visit the fifth station of Mount Fuji and enjoy lunch at a dairy farm. After arriving at the fifth station at Fujinomiyauchi, they spent about an hour there, and then with the Accused driving, they headed off to the dairy farm.

(2) Thereafter, the Accused felt abnormal while driving on a curved road about 5 minutes before the occurrence of the accident in this case; nonetheless, he kept

operating the vehicle, since that abnormality did not last more than a second. He further felt strong fatigue right before the occurrence of the accident in this case and tried to talk to one of his daughters in an attempt to maintain his consciousness, however there was no reply from the daughter. His wife in the vehicle also had a driver's license, however at that time she was not feeling well due to sickness from riding on the mountain pass and did not seem to be able to take the steering wheel for him. On the other hand, the Accused thought that he could take a rest at the dairy farm, which was not far from where they were, and so he kept operating the vehicle.

However, soon after that, the Accused lost his consciousness, and his vehicle ran into the parking area of the Soba restaurant on the right side of the road in his direction. This is how the accident in this case occurred.

(3) The Accused had enough sleep on the day before the date of the accident in this case. There was no sign of, so to speak, dozing off such as yawning or eyelids coming close to closing until immediately before the accident in this case. Additionally, the Accused had no chronic disease such as epilepsy, or he was not taking any medication. According to the medical examination the Accused had after the accident in this case, mountain sickness could be the cause of the Accused's loss of consciousness.

In any case, it is true that the Accused felt abnormal on his physical condition before the accident in this case. To this point, he had a duty to stop operating the vehicle. Concerning this, the Accused himself also admitted he is liable.

(4) The Accused was arrested at the scene of the accident in this case and detained for a period of 26 days in a police station, until he was granted bail by the court.

### 3. There are extenuating circumstances for the Accused.

(1) Absence of previous criminal / traffic accident record:

The Accused has no previous record of either criminal offense or traffic accident at all, either in the U.S. or in Japan.

(2) The Accused's deep regret of this case and promise not to commit the offense again:

The Accused in this public trial addressed his deep regret about the accident in this case and promised never to commit any offense including causing a traffic accident or drinking and driving.

(3) Supervision by the Accused's wife:

The Accused's wife testified in this public trial to promise that she will keep supervising the Accused for him never to conduct careless driving again, and that she will not allow him to operate a motor vehicle, at least in Japan.

(4) Not extremely malicious yet:

As stated above, the Accused had enough sleep by the time of the accident in this case. This case seems to differ from those cases of dozing off while driving motor vehicle induced by lack of sleeping time. Additionally, when he felt abnormal he was so close to the destination that he continued operation of the vehicle. Denouncing such action as extremely malicious is too harsh.

(5) Completion of compensation for the property damage and likelihood of full compensation for the death and physical injury:

The Accused reached settlement with the victims who sustained only property damage, except one party who used his own insurance policy, and completed the compensation to them. (defense exhibit 23 through 30). Additionally, for compensation to the victim of physical injury and the bereaved families, Automobile Compulsory Liability Insurance insures ¥30,000,000 per deceased victim (defense exhibit 12), and Extra Coverage

Automobile Liability Insurance insures ¥30,000,000 per victim as well (defense exhibit 13). So, the total of these insurances covers up to ¥60,000,000 per victim. Furthermore, the Accused has raised ¥50,000,000 for further needs of compensation and entrusted the defense attorney with this amount (Defense exhibit 18 through 20). Because of that, the physical damages as well are expected to be fully compensated. The Accused has retained the defense attorney for the civil settlement and compensation to the victims on whom death or physical injury was inflicted (defense exhibit 22). No matter where the Accused will be situated, execution of settlement and compensation is possible.

(6) Expected recall to U.S. and likelihood of severe penalty by the military authority:

One way or the other, because of the accident in this case, the Accused is expected to be recalled to the U.S. and punished severely by the military authority. In other words, it is unrealistic to worry about a repeat of the same offense by the Accused, and the U.S. military authority will probably impose severe penalty on him as a consequence of this case.

#### 4. Conclusion:

In view of the foregoing circumstances, the defense counsel would like to request to the court that the Accused be given a suspended sentence.

(s) The Court announced that the fact-finding process in this case was completed. The Court asked the Accused if he had something to say about this case and he said:

I am sorry for the pain and suffering that I caused. I have tried from the time of the accident to help all of those who have been hurt. If those efforts were not enough, then I am sorry. The pain and shame of the accident will be with me for the rest of my life. There is nothing more that I regret than my role in this accident.

(t) The court concluded the hearing and announced that the next session for judgment is scheduled at 1500 hours on 18 October 2021.

**b. Second Session - 18 October 2021**

(1) Persons present:

Same as the previous session.

(2) Proceedings:

(a) The court announced reopening of hearing in response to the prosecutor's and Accused's defense counsel's request of the court examine additional documentary evidence.

(b) The prosecutor submitted additional 3 items of documentary evidence labeled as KOU-36 (MOJ' notice of exercising the primary jurisdiction), KOU-37 (The content of the MOJ notice) and KOU-38 (Protocol recording the statement of Ms. Fumiko Endo made to the public prosecutor regarding the uncompensated property damages and request for severe penalty against the Accused) and asked the court to examine them. All the additional evidence submitted by the prosecutor was accepted with the Accused's defense counsel's consent and examined by the court.

(c) The defense counsel submitted 2 items of documentary evidence. They are Notarized Deed of Agreement of Recognition of Debt and the Payment (Ben-31) and Defense Report regarding Compensation for both physical and property damages (Ben-32) and requested the court to examine them. All the additional evidence submitted by the defense counsel was accepted with the prosecutor's consent and examined by the court.

(d) After examining the additional evidence submitted by both the prosecutor and the defense counsel, the judge asked them whether they had any additional opinions to be added to the previously made closing arguments. Both the prosecutor and the defense counsel stated that their previous opinions remained unchanged.

(e) The judge had the Accused take the stand and asked the Accused what he had in mind after the court examined the additional evidence and heard the opinion of both the prosecutor and the defense counsel as aforementioned. The Accused answered substantially stating as follows:

"Thank you to Mrs. Endo and Ms. Sano's family for making a settlement. I promised to fulfil the agreement as soon as possible. I would like to thank you to Tomoko-san when I met her at the settlement and said to me 'I will not have a mind to continue to hate Alkonis-san all the time during the rest of my entire life.' I am so sorry for the pain and suffering this accident caused."

(f) The court announced its judgment as to the cases of violation of the Law of Inflicting Bodily Injury through Negligence in Operating A Vehicle versus the Accused as follows.

Text:

(1) The Accused shall be sentenced to imprisonment without forced labor for a period of three (3) years.

(2) The court costs shall not be borne by the Accused.

(3) The adjudged facts this court recognized are quoted from the same respective facts described in the facts constituting the offenses charged of the written indictment, i.e.,

(4) The Accused did, at approximately 1:00 P.M. on 29 May 2021, while in the process of operating an ordinary passenger vehicle and proceeding on the road in the vicinity of #59, Yamamiya, Fujinomiya city, Shizuoka prefecture, feeling drowsy, as a result of which, when there existed a fear of having difficulty of watching things closely in the frontal direction, notwithstanding that, under such circumstances, he had a duty of driving a car carefully by stopping the vehicle immediately, neglecting therewith, without stopping the operation of the car immediately, continue driving a car under the aforementioned circumstances inattentively, and through such negligence, did, at approximately 01:09 P.M. on

the same day, while driving to proceed the roads between the vicinity of the road at 1611-1, Yamamiya, the same city and the vicinity of the road at 2525-1, Yamamiya, the same city, at a rate of approximately 45 kilometer per hour, from the direction of Awakura towards that of Kitayama, fall into a state of drowsiness, around which time, did, on the road in the same vicinity, permit his car to uncontrollably proceed toward the northwest direction of the parking lot on the south side of the building of drinking-eating establishment on the road located at 2649-23, Yamamiya, the said city, which was located to his right direction, did permit the front part of his car to collide with the front part of an ordinary passenger car (Fujisan340 SA 3940)(hereinafter called "No.1 vehicle") which was parked at the southeast end of the said place, and moreover, did permit the right front part of his car to collide with the left front part of an ordinary passenger car (Fujisan 341 CHI 1881)(hereinafter called "No.2 vehicle"), which was parked on the northwest side of No.1 Vehicle, did, due to the impact thereof, cause No.2 vehicle to be pushed and rotated from facing the southwest direction to facing the northwest direction, when Takeshi Endo (54 years old at that time) was about to get into the driver's seat of an ordinary passenger car (Shizuoka 330 SE 7072)(hereinafter called "No.3 vehicle"), which was parked right next to the aforementioned vehicle, did cause No.2 vehicle collide with the said vehicle together with the aforementioned Takeshi Endo to compress him between them, and moreover, due to the impact thereof, did cause the No.3 vehicle pushed toward the north direction to cause its left front part to collide with Fumiko Endo (53 years old at that time), who was violently struck by the said vehicle to be knocked down on the ground, did, moreover, when Seiko Sano (85 years old at that time) was walking on the left side of the said vehicle, cause the left side of the said vehicle to collide with her and the left side of an ordinary passenger car (Fujisan 588 NA 1017), which was parked right next to the said vehicle, to compress her body between those vehicles, did thereby inflict bodily injury of tonic pneumothorax upon her, and did thereby cause her to die due from the aforementioned injury, at approximately 03:42 P.M. on the same day, in the Shizuoka Prefectural General Hospital, located at 27-1, 4 Chome, Kitayasu-higashi, Aoi-ku, Shizuoka prefecture, and did inflict bodily injury such as fracture of the pelvis, etc. upon the aforementioned Takeshi Endo, did

thereby cause him to die due to a diffuse cerebral edema caused by fat embolism resulted from the aforementioned injuries, at approximately 06:28 P.M. on 11 June, the same year, in the Shizuoka Hospital attached to the Medical Faculty of Juntendo University, and did inflict bodily injury of contusions and abrasions on both knees and left elbow, upon the aforementioned Fumiko Endo, which required medical treatment for a period of approximately seven (7) days.

(5) The Accused shall be sentenced to imprisonment without forced labor for a period of three years.

(6) The judge made the following supplemental explanation:

According to the protocols recording statement of the Accused made to the public prosecutor (OTSU-9) and to the police officials (OTSU-2, -4 through -8), together with respective evidence listed above, it is sufficient to recognize the adjudged facts. The Accused stated at the during the police investigation that while proceeding at approximately 1:00 P.M. on 29 May 2021, on the road in the vicinity of No. 59, Yamamiya, Fujinomiya City, Shizuoka Prefecture (hereinafter referred to as "the point in this case") felt drowsy. The Accused, however, made another additional statement at the stage of this public trial that he did not feel drowsiness around the point in this case together with a statement that could be interpreted as a report that he was suffering from a mountain sickness for a reason based on medical doctors' diagnosis, because of which he fell into the state of drowsiness, this court makes the following explanation additionally.

Firstly, during the investigation, the Accused stated to the effect that he started feeling drowsy after passing through the curves on the mountain road and then proceeding on a straight road for a while, because of which, his reactions to turn the steering wheel at the curves became slowed due to the drowsiness, which occasionally caused the car to be too close to the edges of the curved road but thought that he would eventually get to "Ideboku" where he would be able to take a rest, kept driving the car, talked to his daughter in order to get over from the developing drowsiness, but finally went to sleep and caused the accident before he knew it, all

of these statements of which can be said to be concrete and vivid. Additionally, the Accused made consistent statement to that effect, i.e., he pointed out the location in this case to the investigating officer as a point where he felt drowsiness, etc., and the content of those statements by him were not linguistically difficult to understand because they were translated into Japanese with the same meaning by three different interpreters, from which it can be said that no questionable points were recognizable in the accuracy of the respective translations.

On the other hand, the Accused stated to this court that though he felt weak in his arms when turning on the curves which caused him to fail to properly stay in his lane on the road, when he did not feel drowsiness, he felt his body getting weak or tired, and when he tried to start a conversation with his daughter, he lost his memories thereafter. This statement contradicts what he said during the police investigation regarding the sequence of events leading up to the accident as to whether he felt drowsy or not, and is illogical as a reason why he failed to turn the steering wheel properly to turn on the curves, and he was not able to give a reasonable explanation as to why he suddenly fell unconscious.

The Accused gave his testimony to this court to the effect that he was suffering from mountain sickness by reasoning based on the medical doctors' diagnoses, because of which he fell unconscious, but according to the aforementioned respective pieces of evidence, it can be recognized that the Accused, on the day of the accident in this case, at the point when he started driving the car at the fifth station of the Mt. Fuji, did not have any abnormality in his physical condition, having no problem in the operation of the car, and additionally, judging from the height of the fifth station of Mount Fuji, it is difficult to assume that he might be suffering from serious altitude sickness.

Besides, it is generally recognized that the symptoms of mountain sickness are alleviated gradually as the altitude is lowered, and even if he was suffering a mild case of mountain sickness at such a level he did not notice it at the fifth station of the Mt. Fuji, while lowering the altitude, it is difficult to believe that he suddenly fell into a situation

of having troubles in the operation of a car or spontaneously fell unconscious because of such mild mountain sickness that he asserts to be the direct cause.

Of course, it is conceivable that he might be suffering from mild mountain sickness and his body accumulated fatigue from driving a car for a long time continuously, yet, it is still difficult to assume that he drove a car without feeling any drowsiness at all but he suddenly fell unconscious only immediately before the accident, thus taking such a sudden progression of symptoms.

Judging from the foregoing, it should be said that the statements he made during the investigation are reasonable with high credibility, and in contrary thereto, the part of his testimony made to this court is not credible.

(7) The judge gave rationale for determining the weight of the penalty to read as follows:

This case is a case of causing death and bodily injury through negligence in automobile operation, in which the Accused did, notwithstanding that he felt drowsy while he was driving an ordinary passenger vehicle, continue driving, through his negligence, falling into a state of drowsiness, he steered his vehicle off into the off-street parking lot, permitting his vehicle to collide with the vehicles parked in the said parking lot, he permitted two persons to be killed and one person to be injured.

The Accused did, at the time of this case, feel drowsy, and as there existed a fear of falling into a state in which it was difficult for him to pay close attention to his front, the Accused did, notwithstanding that it was his extremely basic and important duty to exercise due care as a driver of operating an automobile to stop driving his vehicle immediately, neglect therewith, he did, as a result of driving his vehicle, falling into a state of drowsiness, steering his vehicle off into the off-street parking lot, cause the accident in this case. Moreover, the Accused did, notwithstanding that he not only felt drowsy, but also felt concrete problems in his steering because of the drowsiness, still continue driving, and conduct of such driving is extremely dangerous, and the negligence is extremely grave.

The three victims, being relatives to each other, suddenly encountered the accident in this case in the parking lot of the restaurant where they happened to be, and no fault whatsoever can be recognized on their part. Especially the two victims who ended up being killed by their bodies being compressed between the parked vehicles, etc., their death of which is immeasurable, and the victim who was injured, not only being injured, but also losing her mother and husband at one time, has fallen into a situation where she cannot find herself in hope to live, and the rest of the bereaved family of the two victims who were killed, suddenly losing their relatives who were healthy, keep bearing a deep sense of loss. The consequences of this incident are really grave.

The bereaved family of the two victims, coupled with the fact that the Accused's first response to the situation was insufficient, ask for a severe punishment against the Accused, and it is natural. In view of the foregoing circumstances, the culpability of the Accused is extremely grave.

At this court, as facts to be recognized and taken into consideration, the Accused stated that he was sorry that he caused a lot of pain upon the victims and their bereaved families, promised that he would never drive a car nor commit any offense in the future showing his remorse, and his wife testified to the effect that she would closely supervise his behaviors and make sure that something like this would never happen again, and in addition thereof, facts that a civil settlement as to the human damage was made to the deceased victims and the injured victim, that the Accused had no previous criminal record, and that the Accused had a wife and small children to nurture, etc., are recognized. However, even taking all of the mitigating circumstances to the maximum extent, this court deemed it to be inevitable to render the sentence without suspension as in the text, and thereby adjudged the penalty as in the text.

The judge explained the right to appeal. Imprisonment without forced labor for three years means that the Accused has to serve time in prison for the period. This judgment is a judgement of finding the Accused guilty. The Accused has the right to appeal to the higher court filing an appeal of dissatisfaction with the judgment. If the Accused is dissatisfied with this judgment, the

Accused may file a Koso-appeal with the Tokyo High Court within fourteen days from tomorrow. If this rule of 14 days is not abided by, an appeal of dissatisfaction of the judgement cannot be done. If dissatisfied with the judgment, the Accused can have his defense attorney write a letter of appeal and submit it to the Tokyo High Court via this district court where three judges will hear an appellate case.

13. SAFEGUARDS:

In the opinion of the trial observer and as shown above, all safeguards secured by the Status of Forces Agreement between the governments of the United States and Japan were observed.

(b) (6), (b)

LCDR, SN,  
United States Representative  
Date: 16 DEC 2021

## **APPENDIX A**

### **(Summary explanation of the list of exhibits.)**

The two groups of exhibits, exhibits KOU and exhibits OTSU, consist of 35 exhibits and 12 exhibits respectively.

The first group is listed as follows.

#### Exhibit KOU

1. Protocol recording the procedure of on-the-spot examination report prepared by Shiho Haruhara, Police official, dated 2 Jun 21: Record including information about circumstance of the accident site and reenactment of the accident assisted by the Accused and witness and etc.
2. Investigation report prepared by Shiho Haruhara, Police official, dated 15 Jun 21: correction made on Exhibit KOU. No.1
3. Investigation report prepared by Akihiko Fukazawa, Police official, dated 3 Jun 21: correction made on Exhibit KOU. No.1
4. Investigation report prepared by Shiho Haruhara, Police official, dated 4 Jun 21: correction made on Exhibit KOU. No.1
5. Investigation report prepared by Yasuharu Nakayama, Police official, dated 4 Jun 21: Record including the facts such as that the motor vehicle operated by the Accused did not collided into the guardrail affixed along the road and etc.
6. Investigation report prepared by Shiho Haruhara, Police official, dated 30 May 21: Record including information such as circumstance of the accident scene, condition of the damaged vehicles, reenactment of the accident assisted by the Accused and witness and etc.

7. Protocol recording the procedure of on-the-spot examination report prepared by Kouichi Izukawa, Police official, dated 8 Jun 21: Record Including information such as circumstance of witnessing the accident and etc.
8. Investigation report prepared by Kouichi Izukawa, Police official, dated 14 Jun 21: Supplementary information to Exhibit KOU. 7.
9. Protocol recording the procedure of on-the-spot examination report prepared by Yoshihiro Aranami, Police official, dated 3 Jun 21: Record including information such as the Accused's explanation of the course he took when operating the vehicle from starting point to the accident site and etc.
10. Protocol recording the procedure of on-the-spot examination report prepared by Shiho Haruhara, Police official, dated 3 Jun 21: Record including information such as reenactment of the accident assisted by the Accused and etc.
11. Investigation report prepared by Yukihiro Ito, Police official, dated 9 Jun 21: Determination of speed of the Accused's vehicle at the time of the accident
12. Investigation report prepared by Yoshihiro Aranami, dated 10 Jun 21: Determination of time point when the Accused felt drowsiness
13. Investigation report prepared by Yoshihiro Aranami, Police official, dated 9 Jun 21: Determination of time and date that the accident occurred.
14. Protocol recording the procedure of on-the-spot examination report prepared by Hiroshi Yamaoka, dated 3 Jun 21: Record including information such as description of shape of the Accused's vehicle and damage on the vehicle and etc.

15. True transcript of automobile registration certificate issued by Director of Transportation Bureau, Kanagawa Branch Office, dated 11 Dec 20: Record including information about status of registration of the Accused's vehicle and etc.
16. Investigation report prepared by Hidetoshi Bito, dated 10 Jun 21: Determination of circumstance of the accident when it occurred, and circumstance of the collision and etc.
17. True transcript of postmortem examination report prepared by Kei Iwashina, dated 29 May 21: Determination of facts such as cause of Ms. Seiko Sano's death (Victim) and etc.
18. Telephone conversation record prepared by Kyoko Kanbe, Police official, dated 2 Jun 21: Result of telephone interview with a medical doctor with regard to cause of Seiko Sano's death
19. Telephone conversation record prepared by Shiho Haruhara, Police official, dated 14 Jun 21: Result of telephone interview with a medical doctor with regard to cause of Seiko Sano's death
20. Investigation report prepared by Ryo Suzuki, Prosecutor's assistant officer, dated 29 Jun 21: Confirmation of location of Shizuoka Prefectural General Hospital
21. Written diagnosis prepared by Kenichi Muramatsu, dated 14 Jun 21: Record including information such as name of injury sustained by Takeshi Endo (Victim) and etc.
22. Copy of true transcript of postmortem examination report prepared by Hiroki Nagasawa, dated 11 Jun 21: Determination of facts such as cause of Mr. Takeshi Endo's (Victim) death, and etc.

23. Investigation report prepared by Akihiko Fukazawa,  
dated 1 Jul 21: Correction made to Exhibit KOU. No.22
24. Investigation report prepared by Fumiaki Yamaguchi,  
Police official, dated 14 Jun 21: Result of interview  
with a medical doctor with regard to cause of Mr.  
Takeshi Endo's (Victim) death
25. Written diagnosis prepared by Toshinobu Takahashi,  
dated 29 May 21: Record including Information such as  
name of injury sustained by Ms. Fumiko Endo's (Victim)  
and term of medical attention needed and etc.
26. Protocol recording statement of Ms. Fumiko Endo made to  
Police official, dated 8 Jun 21: Statement including  
information such as circumstance of the accident,  
desire / expectation for level of punishment against  
the Accused and etc.
27. Protocol recording statement of Ms. Fumiko Endo made to  
Public prosecutor, dated 7 Jul 21: Statement including  
information such as general condition of Takeshi's  
(Victim) life before the Accident, the same after the  
Accident, desire and expectation for level of  
punishment against the Accused, and etc.
28. Protocol recording statement of Mr. Naotaka Sano made  
to Police official, dated 29 May 21: Statement  
including information such as circumstance of the  
accident site immediately after the accident and etc.
29. Protocol recording statement of Mr. Hirokazu Oshima  
made to Police official, dated 29 May 21: Statement  
including information such as circumstance of the  
accident site immediately after the accident and etc.
30. Protocol recording statement of Mr. Noriyuki Mochizuki  
made to Police official, dated 29 May 21: Statement  
including information such as circumstance of the  
accident site immediately after the accident and etc.

31. Protocol recording statement of Ms. Mina Kasai made to Police official, dated 29 May 21: Statement including information such as circumstance of the accident site immediately after the accident and etc.
32. Protocol recording statement of Mr. Takanori Konishi made to Police official, dated 31 May 21: Statement including information such as circumstance of the accident site immediately after the accident and etc.
33. Protocol recording statement of Ms. Britany Ann Alkonis made to Police official, dated 1 Jun 21: Statement including information such as background leading to the accident and circumstance of the accident site immediately after the accident and etc.
34. Investigation report prepared by Ryoko Kubota, Police official, dated 1 Jun 21: Correction made to Exhibit KOU. No. 32
35. Protocol recording statement of Ms. Tomoko Ichihara made to Public prosecutor, dated 15 Jun 21: Statement including information such as general life condition of Mr. Takeshi Endo and Ms. Seiko Sano (Victims) before the Accident, and desire / expectation for level of punishment against the Accused and etc.

The second group is listed as follows.

Exhibit OTSU

1. Protocol recording statement of the Accused made to Police official, dated 30 May 21: Statement including information such as the Accused's personal history and professional career and etc.
2. Protocol recording statement of the Accused made to Police official, dated 1 Jun 21: Statement including information such as the background leading to the accident and etc.

3. Investigation report prepared by Takumi Ishikawa, Police official, dated 2 Jun 21: Correction made to Exhibit OTSU No.2
4. Protocol recording statement of the Accused made to Police official, dated 8 Jun 21: Statement including information such as the course that the Accused traveled while operating the vehicle to the accident site and etc.
5. Protocol recording statement of the Accused made to Police official (8 Pages in total), dated 9 Jun 21: Statement including information such as the circumstance of the accident and etc.
6. Protocol recording statement of the Accused made to Police official, dated 4 Jun 21: Statement including information such as damage level of the Accused's vehicle and etc.
7. Protocol recording statement of the Accused made to Police official (24 pages in total), dated 9 Jun 21: Statement including information such as circumstance of the collision and etc.
8. Protocol recording statement of the Accused made to Police official, dated 14 Jun 21: Statement including information such as the Accused physical condition at the time of the accident and etc.
9. Protocol recording statement of the Accused made to Public prosecutor, dated 15 Jun 21: Statement including information such as the background leading to the accident, circumstance of the accident, and etc.
10. Telephone conversation record prepared by Kenichi Miyahara, Police official, dated 29 May 21: Confirmation of location of the Accused living place
11. Investigation report prepared by Kenichi Miyahara, Police official, dated 2 Jul 21: Correction made to

Exhibit OTSU. No. 10

12. Investigation report prepared by Akihiko Fukazawa,  
Police official, dated 3 Jun 21: Condition and status  
of the Accused's Social Security Card